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91-1264

No._____

Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1991

Richard C. Soehngen,

Petitioner,

v.

Merit System Protection Board,

Respondent.

APPENDICES

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Richard C. Soehngen
Suite #100
8094 Rolling Road
Springfield, VA 22153
(703) 720-0315

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APPENDIX U

U.S. Department of Justice
Executive Office for Immigration Review

Chief Immigration Judge

5201 Leesburg Pike
Falls Church, Virginia 22041

April 25, 1989

TO WHOM IT MAY CONCERN:

It is my great pleasure to recommend RICHARD C. SOEHNGEN for admission to law school. I have had an opportunity to see Rick's work and intellectual fervor since he joined the Executive Office for Immigration Review in January, 1988. Rick had a distinguished record in the Army and in his prior academic efforts before joining the Office of the Chief Immigration Judge in El Paso, Texas, in the position of Management Officer as a Presidential Management Intern. From January, 1988, to July 1988, he served in that capacity and then transferred to the headquarters office as a program analyst in our newly established Criminal Alien Unit. **He has spent most of his time since July, 1988, assisting in the coordination and establishement of our hearing program for incarcerated aliens in corrections systems at the federal, state and local levels.** In particular, he has focused much of his effort on the establishement of pro bono publico programs to assure that aliens are represented in these hearings. His concern and willingness to take that extra effort to assure that incarcerated aliens have access to legal counsel in these deportation proceedings have been particularly noteworthy.

Rick has a particular creativity and initiative that could provide him with the types of skills necessary to succeed in a law

school environment. He is adept at indentifying critical issues as problems arise and in developing innovative solutions to these issues. He clearly enjoys thinking about solutions to problems and could, as a result, adapt to the critical analytical skills necessary to success in law school.

Rick's character is beyond reproach and the energy he brings to any task with which he is faced is formidable. His enthusiasm for intellectualizing issues that are presented to him should serve him well in a law schol environment. He is able to communicate his enthusiasm both orally and in-writing in an analytical framework.

I urge you to seriously consider Mr. Soehngen for admission to your program. His industrious nature will provide another opportunity for the legal community to benefit from his tremendous devotion to duty. If I can provide any further information, please do not hesitate to contact me at 703-756-6247.

Sincerely Yours,

William R. Robie
Chief Immigration Judge

(Exhibit, Grievance Process)

APPENDIX V.

Summation of Federal Employment History (And Mitigating Sensitive Circumstances)

Preface

As the court considers the constitutionality of the Petitioner's claim to his special compensatory, preference eligible combat-disabled veterans' rights raised in this petition for writ of certiorari, the following background series of facts may provide some additional perspective in deciding if Pro Se Petitioner is entitled to jurisdiction and the basic due process right to an evidentiary hearing in this case. Petitioner remains reasonably confident that even a cursory review of this background series of mitigating sensitive circumstances will show a clear pattern of prohibited retaliation, cover-up, and obstruction of justice emerge through over two years of litigation. Petitioner remains equally confident that this case could have been very easily and reasonably adjudicated at the agency level without burdening the Court were-it-not for the actions of certain high-level government officials attempting to cover-up their own deplorable actions, and Petitioner's subsequent lack of real alternative but to tenaciously pursue simple justice through the Department's own grievance process, the Merit Systems Protection Board (MSPB), and the U.S. Court of Appeals for the Federal Court.

The Court should note immediately that although I was successful in the grievance process, my employment had already been unlawfully terminated when the Fact-Finder's report was issued. As the Court reviews this background series of facts (most of which are already on the sworn record in this case through the Fact-Finder's grievance process), it will also become shockingly evident that there are no issues of poor or unsatisfactory performance, misconduct, inefficiency, or unsuitability of record in this unusual case despite ample opportunity for the government to have presented such issues justifying my unlawful termination before. Petitioner now respectfully asserts that it is these and other "subliminal issues" inherent in this case, which the jurisdictional barrier raised by the government is now attempting to use to seal the real issues from court scrutiny.

To avoid any adverse action which would automatically have entitled Petitioner to a hearing, the principal judicial officials involved chose to terminate Petitioner's employment based on an alleged mere "expiration of Presidential Management Intern appointment" that is not supported by the facts governing the nature of his tenure - particularly on a third year extension of a Presidential Management Internship, and special disabled veteran's status. This clever administrative and judicial tactic designed to thwart justice in this case has been upheld by the MSPB, and the U.S. Court of Appeals for the Federal Court. I now submit to this Court that the unpersuasive decisions and opinions that have thus far been rendered by both of these lower courts (which unconstitutionally ignored my veteran's preference and proof- positive claim, determined by the Department's own Fact-Finder, that the Department had violated the governing PMI and grievance regulations) were reached not on the facts and pertinent law involved, but on the special relationship of Petitioner's particular adversaries within the Federal Judiciary and the Federal Bar Association.

It is Petitioner's distasteful duty to now vigorously assert to this Court his firmly-held belief that it is the particular nature of these special relationships enjoyed by his principal adversaries within the judicial system (and Federal Bar Association), which has clearly impaired judicial impartiality, and thus far denied a reasonable measure of simple justice in this case.

In brief summary, Petitioner believes the infringement of his rights inherent in this case also affects veterans' rights in general, and special compensatory (30 percent or more) combat-disabled veterans in particular, and for other very substantial reasons warrant the Court's careful scrutiny. To be perfectly candid: Petitioner respectfully asserts the issues raised in this petition for writ of certiorari should not be decided in the "back corridors of power", through prohibited ex parte communication, or in a judge's chambers without all parties represented; as an alternate view, petitioner also respectfully submits that the series of facts presented now require (if necessary, by this Court's order), that the Solicitor General and/or the U.S. Department of Justice be requested to respond with a Brief-in-Opposition before the Court exercises its judicial discretion to review or dismiss this case.

The following series of facts (which will go largely undisputed in any evidentiary hearing that may be granted due to the substantial body of written documentation already on the sworn record) will show the unnecessary creation of a very hostile work environment, despite my repeated attempts to amicably find a reasonable solution within the confines of the Office of the Chief Immigration Judge. At the conclusion of these series of facts already largely in the sworn record, a "deep background" series of events is also provided for the Court's review. For reasons that should become obvious to the Court, I have prudently attempted to rely on the regulations specified in Chapter 362 of the Federal Personnel Manual (and related documents governing the Presidential Management Intern Program); U.S. Department of Justice Order 1771.1B governing the grievance process; my veteran's preference rights outlined in the U.S. Code; and the substantial body (over 550 pages) of written and sworn testimony in the grievance process. However, it is time this matter was put in its proper "politically correct" perspective before the only legal forum Petitioner is aware of, that could reasonably be expected to adjudicate and provide some form of equitable relief in this unusual case.

Statement of Facts

After approximately a year and a half as a patient at the Walter Reed Army Medical Center, during which time I underwent two operations, I was medically retired as a Captain with a 70 percent disability from the U.S. Army in January 1986 (which was later reduced to a 50 percent permanent disability when my medical condition stabilized). Due to my medical records from the Republic of Vietnam, my combat records, and subsequent medical history, my injuries were judged by an Army medical board to be "combat-related". Subsequently, the Veterans Administration also medically evaluated me and found the same percentage of disability (70 percent with no change in medical rating-to-date). At no time before or since have I had an adversary relationship with either agency regarding my well-documented medical conditions stemming from my two tours of duty in the Republic of Vietnam.

Shortly thereafter in January 1986 I enrolled in a masters degree program in political science offered through the University of South Florida at MacDill Air Force Base, Tampa, Florida. In addition to my medical retirement from the U.S. Army, the VA also agreed to pay full tuition, books, and associated fees under Chapter 35 of the VA's Vocational Rehabilitation Act.

Determined to continue to serve in some useful capacity in the government, I actively researched and sought in the fall of 1986 a university nomination to OPM's Presidential Management Intern Program which was the first step in OPM's nationwide selection process to recruit graduate students for a career in the federal government.

After securing two substantial recommendations from my professors, writing an essay the length of a small term paper, and completing other paperwork required by OPM, I formally applied for the PMI program in December 1986. As required by the OPM application for the PMI program, I also provided copies of my military orders for medical retirement specifying the percentage of disability at 70 percent and subsequent VA disability rating with the same percentage. At that same time, I also provided OPM with the security forms needed for the standard National Agency Check with Inquires (NACI) which is required before hire in the federal government service.

In January 1987 I was notified by OPM that I had not been accepted into the PMIP. Following OPM's own guidelines, I appealed this decision to the Director of the Presidential Management Intern Program on the basis of my veteran's preference.

In March 1987 I received the letter presented in the Petition for Writ of Certiorari which outlined the reasonable expectations I could have for a successful government career from OPM's Director of the PMIP who very graciously notified me that I had been selected as a 1987 Presidential Management Intern Finalist (the first in a student body of over 20,000 students at the University of South Florida to be selected). As a result of my appeal, two other veterans also became eligible because of their earned preference.

In April 1987 I also became the first USF student to graduate at MacDill Air Force Base, Tampa, Florida with a masters degree in political science with a specialized focus in national security affairs which is reflected on my official transcript. My GPA was 3.56 with almost 40 graduate credit hours earned at MacDill AFB, and includes transfer credit from George Washington University, and the U.S. Army's Command and General Staff College (from which I had graduated earlier in my military career).

In July 1987 while still in Florida, I accepted a position as a PMI/Program Analyst offered over the phone by a Department of Army agency located in Virginia.

In August 1987 I sold my Florida home and relocated my family of (then) five to Virginia in time to start my new position on August 24, 1987. My initial work with this agency involved helping to develop a 20 year strategic plan, based on the organization's long term goals and objectives, within projected budget constraints, in time for this agency's FY88 budget submission to Congress, due in November 1987. Within one week it quickly became apparent to me that most of this agency's projected programs would be slashed and that I would be searching for a more permanent program to help administer by the end of the year.

In October 1987 I had a successful initial interview for a position as a PMI/management officer in the Office of the Chief Immigration Judge (OCIJ), Falls Church, Virginia. This position would be in the El Paso, Texas Office of the Immigration Judge starting in January 1988. In November 1987, I had another successful interview before the Honorable Chief Immigration Judge (CIJ) William R. Robie and four other Assistant Chief Immigration Judges (ACIJ), including the Honorable ACIJ Mary Ann Mohan. As I had done for OPM, I provided copies of my U.S. Army medical retirement orders and VA medical rating during this interview. Subsequently in a letter dated December 1, 1987, I was officially offered the position of a PMI/management officer with the U.S. Department of Justice effective January 11, 1988. (Please note this date.) With CIJ Robie's letter I affected a smooth

transition from DA to DOJ and in-processed on January 11, 1988 with the U.S. Department of Justice without any difficulty.

After a few days' orientation with OCIJ and its parent organization, the Executive Office for Immigration Review (EOIR), I quickly rented my Springfield, Virginia house and moved my family to El Paso, Texas at my own expense. After expeditiously making arrangements for rental housing for my family, I reported to the Office of the Immigration Judge and assumed my new duties as management officer for the El Paso Immigration Court.

In February/March 1988 I researched the nomination requirements for the prestigious Presidential Management Intern (Program) Alumni Group (PMIAG) Award for outstanding government leaders who had a demonstrated history of promoting Presidential Management Interns in the PMI program with the Federal Government. With this information and CIJ Robie's biography, I successfully nominated CIJ Robie (working from El Paso, Texas) through a very competitive government-wide selection process to receive the 10th Annual PMIAG Award in Washington, D.C. Subsequently, CIJ Robie received a plaque from the PMI Alumni Group of former PMIs (still employed by the Federal Government) during a dinner in his honor in May 1988. This fact is cited in order to show the Court that the government would be hard-pressed to now depict me as ever having been disloyal to CIJ Robie or to any other member of the Department; or alternatively, as a social misfit undistinguished in the rudimentary professional and social skills necessary to cooperate as a team player in the federal bureaucracy.

In June 1988 I received a letter from CIJ Robie offering me a position as a program analyst in the Criminal Alien Program (CAP) Unit under ACIJ Mohan within OCIJ. Although the letter promised career progressions to GS-13 based on satisfactory performance, I suspected the primary reason for this offer was due to the former El Paso OIJ managements officer's inability to sell his house in the depressed real estate market in El Paso, Texas and his strong wish to return from the CAP Unit to his family in Texas. I was also aware of his close personal

friendship with ACIJ Mohan in Chicago preceding their government service and the fact that the position of management officer had in April 1988 been upgraded to a GS13/GM13 position (the same as the CAP program analyst position he was holding), thereby negating any incentive for him to remain in Washington. However, I was in no position to refuse this transfer which included my family's moving expenses, so without argument I accepted CIJ Robie's offer as graciously as I could under the circumstances. (CIJ Robie's June 10, 1988 letter is in an exhibit in the subsequent grievance filed with the Department.)

In August 1988 I moved my family of now six (our fourth child was born at the Ft. Bliss Army Hospital in April 1988) back to Virginia at some personal expense, and immediately assumed my new duties as a program analyst in the Criminal Alien Unit (consisting of ACIJ Mohan, a secretary, a court interpreter, and me.) Between August 1988 and November 1988 my family of six lived in a two bedroom apartment (at a personal cost of several thousand dollars) until I could evict my understandably angry tenants who felt that they had a 36 month lease in January 1988. This apartment cost the government approximately $1,900 a month.

On August 24, 1988 following normal career progression for Presidential Management Interns, I was promoted from GS-9 to GS-11 as a program analyst in the CAP unit (one year after I had entered government service and within two weeks of my arrival from Texas.)

In December 1988 my wife and I attended the annual semi-official Christmas Party held at CIJ Robie's home. (Please see the latter portion of this appendix for the significance of this particular fact.)

On January 13, 1989 I received a mid-year performance counseling session with ACIJ Mohan that went very well. During this counseling session ACIJ Mohan expressed satisfaction with my performance since August 1988 and specifically told me that I would receive at the end of the rating cycle in March 1989 either an "excellent or an outstanding performance rating" - she wasn't sure which. (A year and

a half later, during three days of sworn testimony and over 550 pages of transcript transcribed by a certified court reporter, ACIJ Mohan would not deny she told me this.)

January 1989 (Please see the deep background portion of this appendix.)

March 1989 (Please see the deep background portion of this appendix.)

On March 31, 1989 all performance ratings were due within the U.S. Department of Justice. Before the due date, ACIJ Mohan gave performance ratings to her secretary and court interpreter and established new performance work plans for these employees covering the new rating period from April 1, 1989 through March 31, 1990. However, I did not receive a performance rating or a new performance work plan as required by the Department's regulations and substantial policy guidance.

Throughout April 1989, without making it a major issue, I gently asked ACIJ Mohan for my performance rating on several occasions. She kept postponing any discussion of my performance and I began to become somewhat uneasy due to the circumstances outlined in the deep background portion of this brief. I also became uneasy when ACIJ Mohan stopped giving me any work to do.

On April 26, 1989 CIJ Robie gave me a letter of recommendation for law school attesting to my character and intellect, that I had originally requested in January 1989. (This letter was on exhibit in the subsequent grievance filed with the Department.)

On May 3, 1989, five weeks after it was due and one week after I had received CIJ Robie's law school recommendation, ACIJ Mohan gave me a mediocre "fully successful" performance rating. This had the immediate effect of blocking a transfer to the U.S. Marshal's Service for which I had begun negotiating after the third incident mentioned in the deep background portion of this brief occurred in March 1989. Although CIJ Robie and ACIJ Mohan would later submit affidavits attesting that a "fully successful" performance rating was a satisfactory

and honorable rating, the reality is that such a rating is a red flag form of subtle adverse discrimination that would effectively prohibit me as a Presidential Management Intern from transferring from OCIJ. It was also clear that this performance rating signed by ACIJ Mohan (as my immediate supervisor) and CIJ Robie (as my reviewer) did not square with the substantial recommendation I had received from CIJ Robie the week before.

Subsequently, ACIJ Mohan put-off two (2) appointments we had established to discuss my performance rating (at which point I would also have asked for a transfer) the following week. Due to the Department's clearly stated time restrictions for filing a grievance, and the annual immigration judges conference scheduled in Miami the following week, I had no alternative but to file an informal date-stamped grievance on May 12, 1989 with ACIJ Mohan, or lose my right to grieve this matter in its entirety later.

(The Court should note that this May 12, 1989 letter also contained what I still maintain was a very reasonable request for a Performance Rating for my period of honorable Federal Service in Texas the year before from approximately January 1988 to August 1988, which fact has been subsequently "lost" through the ensuing litigation process.)

Initially, I fully expected this matter would easily be resolved on an informal basis within OCIJ. As U.S. Department of Justice Order 1771.1B clearly established, it was my duty as the employee to resolve this matter at the lowest possible level. DOJ Order 1771.1B also requires all supervisors to resolve matters, if possible, at the lowest level before a formal grievance is filed. Within OCIJ and EOIR it was not unusual for CIJ Robie and the ACIJs to hold frequent phone conversations to address personnel matters such as were of concern to me (on the surface). On occasion, employees would also travel from one of OCIJ's 21 field OIJ offices to discuss matters directly with CIJ Robie and the ACIJ in charge of that field office. Although my office was later located within 20 feet of CIJ Robie's office, and right next door to ACIJ Mohan's office, the opportunity to discuss this matter

never occurred in my case (beyond any reasonable doubt, due to the deep background incidents related to in this brief).

When ACIJ Mohan and CIJ Robie returned from the annual Immigration Judges Conference a week later, I asked ACIJ Mohan specifically:

1. If I could discuss the matter with her. (Denied.)

2. If I could discuss the matter with CIJ Robie. (Denied and expressly prohibited from doing so.)

3. If I could receive a new performance work plan for the rating period April 1, 1989 through March 31, 1990. (Ignored.)

4. If ACIJ Mohan would assign a mentor to me as required by Chapter 362 of the Federal Personnel Manual governing the Presidential Management Intern Program. (Told no.)

5. If she had any work for me to do. (Ignored.) Of all the personal anguish associated with this case, the failure to give me any work was the most difficult for me to comprehend and accept.

On May 31, 1989 I received a memorandum from ACIJ Mohan (one of the exhibits in the grievance process) asking if I intended to file a formal grievance and giving me 24 hours to reply. I considered this terse memorandum to be deliberately intimidating, but was not deterred. (The memorandum is an exhibit in the grievance process.)

On June 1, 1989 I responded to ACIJ Mohan's memo with a date-stamped memorandum to CIJ Robie and ACIJ Mohan outlining my responsibilities to try to resolve the matter at the lowest possible level, my willingness to still do so, and my regret that I would have to file a formal grievance with Mr. Milholan, Director of EOIR, within the next day (to meet the grievance time restrictions) if they were still unwilling to discuss the matter with me. (This letter is an exhibit taken under sworn oath in the grievance process.)

In the absence of any attempt to subsequently discuss the issues involved, as DOJ Order 1771.1B required, I regretfully filed a date-stamped formal grievance through OCIJ to the Director, EOIR on June 2, 1989 (the last day to do so.)

On June 6, 1989 I reinjured my back while lifting me sleeping son, Victor, into his bunk bed. I immediately sought medical help from both a civilian doctor in a local medical clinic and military doctors at the military-operated Primus clinic in Burke, Virginia the next morning.

As required by EOIR/OCIJ sick leave policy guidance, I reported this injury by phone directly to ACIJ Mohan shortly after 9 AM on June 7, 1989. I told her that I had been medically evaluated by both civilian and military doctors and that I had received pain medication and a doctor's slip indicating I should remain bed- ridden. I therefore asked to use my accrued sick leave while I recuperated from this injury.

For the next five weeks, ACIJ Mohan's repeated response was to threaten me with being AWOL - despite the fact that I repeatedly sent her by certified mail the doctors' medical evaluations and copies of the medicine I was required to take. (Copies of which I still maintain and which also should still be on file in OCIJ.)

To this day, I still believe her outrageous response was both retaliatory (for filing the formal grievance) and an attempt to cover-up the incidents with CIJ Robie stated in the deep background portion of this brief. My response to this outrageous accusation of being AWOL (in view of my lengthy period of honorable military service dating back to 1967) was to request, also by certified mail, that this harassment cease immediately. On five occasions, I documented my phone calls with ACIJ Mohan and her repeated-needless-threats of AWOL and requested, also by certified mail, through OCIJ to the Director, EOIR "1 - 5 Requests for Relief from Reprisal Action" to no avail. (Copies of this correspondence should still be on file at OCIJ and EOIR.) These threats of being charged with AWOL only ceased after I had used up approximately 4 - 5 weeks of accrued personal and sick leave and had formally requested in late July 1989 Leave Without Pay (LWP) in lieu of Leave With Pay.

On June 21, 1989 I received a letter from CIJ Robie indicating my Presidential Management Intern/program analyst position was extended for a third year. Attached to this letter was a May 23, 1989 letter from Mr. Oser, Director of DOJ Personnel, requesting to OPM, without the required documentation required by Chapter 362 of the Federal Personnel Manual, that my internship be extended. (The letter also made no reference to the fact that a protected grievance had been pending at the time his request was made to OPM.) Also attached to CIJ Robie's letter was a letter dated May 26, 1989 signed by Ms. Paige, approving this request, also without the required documentation or indication a protected grievance was pending.

CIJ Robie's letter cited two reasons for this hasty, ill-conceived request: 1. that my background investigation was "not completed" and 2. he alleged my period of service as a program analyst was insufficient to warrant career conversion at that time. The Court should bear in mind that at that point my two-year internship was within two months of completion and at no time had either CIJ Robie, ACIJ Mohan, or anyone else in the Department ever discussed these requirements with me. (As the 3 days of sworn testimony during the grievance process would prove conclusively a year later, both of these reasons were pretextural and without merit.)

My immediate response was to draft a letter protesting the extension of my internship, which my wife hand-carried to OCIJ and EOIR also on June 21, 1989. Attached to my letter to Mr. Milholan, Director of EOIR was a copy of my military Top Secret clearance which had been first approved in March 1970 (while I was on my second tour of duty in the Republic of Vietnam) and last up-dated in November 1984. Besides my procedural objections to being notified in such an untimely manner (there was ample time to have discussed any extension with me from January through May 1989), I indicated that I had never been informed of these "requirements" for completion of the PMI program or for my service at DOJ.

Because the "facts" cited in this highly-irregular and hastily- prepared extension of my internship were very much in dispute, I requested

twice over the summer of 1989 that Mr. Milholan appoint a fact-finder as required (when the facts are in dispute) by DOJ Order 1771.1B governing the Department's grievance process. In what I still consider to be both a cover-up, and obstruction of justice, Mr. Milholan refused both these requests. Finally, while still timely with Mr. Milholan's latest rejection of my reasonable request to appoint a Fact-Finder as required by DOJ regulation, I consulted an attorney, Mr. William Bransford, who wrote a brief requesting a Fact-Finder be appointed in September 1989. Reluctantly, Mr. Milholan then requested the DOJ Personnel Office consider appointing a Fact-Finder.

In the meantime, since June 21, 1989 when I received CIJ Robie's letter extending my internship for a third year, I had been back-tracking through the DOJ and OPM security apparatus to attempt to learn the basis for why my "background investigation was not completed."

My years of experience as a former military officer had given me some knowledge of security clearance issues and I very much wanted to cooperate in any investigation that was deemed necessary.

What I learned became the proverbial "smoking gun" in this case. In a FAX sent on September 29, 1989 to my attention from the Federal Investigations Processing Center (FIPC) in Boyers, Pennsylvania the message is represented in its entirety following CIJ Robie's letter with attachments for the Court to now compare and consider:

APPENDIX W.

U.S. Department of Justice
Executive Office for Immigration Review
Chief Immigration Judge
5201 Leesburg Pike
Falls Church, Virginia 22041

June 16, 1989

Mr. Richard C. Soehngen
7920 St. Dennis Drive
Springfield, Virginia 22153

Dear Rick:

This letter will serve as notice to you that your Presidential Management Internship has been extended for a third year.

EOIR has determined that the period of time you have been assignedto the Criminal Alien Unit is insufficient to warrant career conversion in a program analyst position now. Additionally, your government background investigation, which was initiated in December 1987, has not been completed. Due to the extremely sensitive nature of managing the Criminal Alian Program, which as you know, requires constant interaction with prison officials and prison systems, the Department of Justice and EOIR have determined that it is impossible for you to be converted without successful completion of this essential security investigation.

Attached are copies of the DOJ letter to OPM dated May 23, 1989, and the OPM response dated May 26, 1989, on this matter. I fully intended to discuss this decision with you personally, but your extended absence from work has made that discussion impossible, and I did not want to delay this official notification to you.

When you return to work, I expect you and Judge Mohan to prepare and submit for my approval an Individual Development Plan (IDP)

and a Performance Work PLan (PWP) which will target specific areas for the coming year.

I also want to be very clear that this decision to extend you internship is in no way connected to your performance rating grievance dated June 1, 1989, which will be considered and adjudicated entirely separately pursuant to existing DOJ Orders.

Sincerely yours,
s(s)William R. Robie
Chief Immigration Judge

Enclosures

APPENDIX X

U.S. Department of Justice

Washington, D.C. 20530

May 23, 1989

Ms. Patricia Paige
Chief, Programs Division
Office of Personnel Management
1900 E. St., NW Room 6332
Washington, D.C. 20415

Dear M. Paige:

Richard C. Soehngen is a 1987 Presidential Management Intern assigned to the Office of Chief Immigration Judge (OCIJ), Executive Office for Immigration Review (EOIR) at the Department of Justice. Mr. Soehngen has served in a program analyst capacity assigned to the organization's Criminal Alien Unit since August, 1988. He served in a field capacity as a Management Officer for OCIJ/EOIR from January to July, 1988. Prior to his transfer to the Department of Justice, Mr. Soehngen was assigned to the Department of the Army for an initial internship period from late August through December, 1987.

At this time, EOIR has determined that the period of Mr. Soehngen's assignment to the Criminal Alien Unit is insufficient to warrant career conversion in a program analyst position. Additionally, Mr. Soehngen's background investigation, which was intiated in December, 1987, has not been completed. Due to the extremely sensitive nature of managing the Criminal Alien Program, which requires constant interaction with prison officials and prison systems, it is impossible to convert Mr. Soehngen absent successful completion of this essential investigation.

This letter is to request OPM's official approval of DOJ's extention of Mr. Soehngen's intership for a third year. Upon your approval, he will be advised on this decision and a copy of this letter will be provided to him. You may contact James L. Anadale, the DOJ PMI Coordinator on 633-3351 if further information is needed.

Sincerely,

Warren Oser
Director of Personnel

APPENDIX Y

U.S. Office of Personnel Management

Washington, D.C. 20415

May 26, 1989

Mr. Warren Oser
Director of Personnel
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Oser:

This is to inform you that your request to extend the Presidential Managment Internship of Mr. Richard Soehngen for a third year, into 1990, is approved.

Mr. Soehngen may be non-competitively converted to the career or career-conditional service at any point during the third year. As noted in FPM Chapter 362, Section 2-4(c), he may not be promoted above the GS-11 grade level during the extended internship period. **Also, the conditions for termination specified under FPM Chapter 362, Section 2-8, remain in effect during the 1 year extension.**

If you have any questions or concerns, please contact Beth Elliott on 632-0601.

Sincerely,
>s
Patricia Paige, Chief
Programs Division
Office of Affirmative
Recruiting and Employment

APPENDIX Z

United States Office of Personnel Management

Office of Federal Investigations
Federal Investigations Processing Center
Boyers, Pennsylvania 16018

Sep 29 '89

Mr. Richard Craig Soehngen
7920 St. Dennis Drive
Springfield, VA 22153

Dear Mr. Soehngen:

This is in response to our telephone conversation in which you requested I send you the status of your investigation from the date we received the case papers.

Our records indicated that on January 13, 1988, we were contacted by the Department of Justice, (OB & D) JMD and instructed to discontinue the Background investigation that was being conducted. On June 29, 1989 we were requested to reopen the discontinued background investigation. At this time the reopened investigation is still in progress. When the investigation has been completed we will respond to your Privacy Act request.

Sincerely,

(s) James C. Scott, Chief
File and Information Branch

The Court will not fail to immediately grasp the significance of this correspondence. Beyond any reasonable doubt it shows:

1. My BI was ordered discontinued by the Department two (2) days after I transferred to DOJ on January 11, 1988, undoubtedly because it wasn't required (my duties at DOJ, while confidential in nature, had not required me, as a non-attorney, to review any criminal alien litigation or otherwise handle any marked classified information, nor am I aware of any such classified information in OCIJ or EOIR); and that CIJ Robie's assertion in his June 16, 1989 letter to me (received June 21, 1989) that my PMI internship was being extended because my BI was "not completed" was a blatant misrepresentation and I submit, pretexual.

2. Perhaps even more significantly, it shows - beyond any reasonable doubt - that my BI was only reopened on June 29, 1991 after:

*I had filed a protected grievance on May 12, 1989 (six weeks before).

*OCIJ had requested the extension of my PMI internship for that primary reason on May 23, 1989 (five weeks before).

*I had respectfully protested the extension of my internship on that basis directly to OCIJ/EOIR with a copy of my Top Secret clearance (exhibit, grievance process) on June 21, 1989 (eight days before).

One year later, during three full days of testimony spread over three weeks, CIJ Robie and ACIJ Mohan would not dispute the integrity of this correspondence received from the FIPC in Boyers, PA.

In November 1989, my doctors permitted me to return to work. Upon my return I asked ACIJ Mohan for a new performance work plan (PWP) to cover the balance of the performance rating period through March 31, 1990. She asked me to write a new PWP based on my duties

and responsibilities as a program analyst in the CAP Unit. I asked her for guidance which she refused to offer. So I prepared a new PWP which established a series of quantitative performance standards by which ACIJ Mohan could both quantitatively and qualitatively evaluate my work with absolute discretion to rate me as my supervisor. Frankly, any objective comparison would show that this PWP was a far superior product than the almost perfunctory PWP I was offered in August 1988 when I joined the CAP Unit.

Attempting to cooperate fully with the PWP process, I asked her if there were any deletions or additions she wished me to make for this new PWP (that had been due April 1, 1989). ACIJ Mohan refused to offer any suggestions and guidance and, by neglecting to sign it for the balance of the rating period as required by regulation, refused to establish this (second possible) PWP. This meant I would continue through March 31, 1990 without a basis upon which I could objectively be evaluated as a PMI/program analyst in the CAP Unit.

The purpose of a performance work plan is clearly established in 5 U.S.C. § 4302. Performance-rating plans; establishment of:

> **"For the purpose of recognizing the merits of employees and their contributions to efficiency and economy in the Federal service, each agency shall establish and use one or more performance-rating plans for evaluating the work performance of its employees."**

Nevertheless, ACIJ Mohan and CIJ Robie still refused to implement a PWP plan in my case.

Clearly the hostile work environment since April/May 1989 would continue during which time I would not have a PWP by which I could be rated for my performance, or given any work to do as a program analyst in the CAP unit. This is despite the fact that I would gently ask her for work, as I had done before on numerous occasions, during the balance of the rating period.

In mid-December, 1989, CIJ Robie again held his annual semi- official office party at his home with his live-in boyfriend. For obvious reasons, outlined in the deep background portion of this appendix, my wife and I chose not to attend this party (fact), as we had in December 1988 (fact), with reasonable expectations of having a good time. I am quite sure that I was probably characterized as being "anti-social" for not attending CIJ Robie's party by other members of the OCIJ staff who were ignorant of the circumstances, but there were very appropriate and valid reasons for choosing not to do so.

In January 1990 the U.S. Department of Justice announced that Mr. Roger Kaplan had been appointed as a Fact-Finder to hear my grievance regarding the extension of my PMI internship for a third year. At this time my attorney of record, Mr. Bransford, also informed me that Mr. Steve Murray would represent me during the grievance hearing.

Also in January 1990, ACIJ Mohan asked me for a list of training courses I wished to attend as required for a third year PMI extension (by regulation, this was required as part of an Individual Development Plan (IDP) before technically any extension of me PMI internship could have been "approved" in May 1989.) I asked for guidance regarding any courses she wished me to take, but she did not respond.

I started off with a request for two courses during the next training cycle which was the maximum offered to any staff member before. ACIJ Mohan kept asking me to increase the training request until I had over 10 training courses outlined for her review. In February 1990, with eight months left on the third year extension, CIJ Robie approved nine (9) training courses for me to attend and include in the IDP.

As required, I incorporated these training courses in the IDP (now 10 months overdue after the May 23, 1989 request was first submitted) and signed the finished product with a request for a counseling session so ACIJ Mohan and I could review the IDP together and I would know clearly the standards she wished me to follow. ACIJ Mohan refused to discuss the IDP with me and refused to provide me with a signed

copy. The Court should note that Chapter 362 requires this IDP as absolutely necessary for any third year PMI and ACIJ Mohan's refusal to finalize the IDP also left me without any objective means by which my performance could be evaluated.

From January through March (and on through August 24, 1990 when I was terminated) I continued to gently ask ACIJ Mohan if I could talk to CIJ Robie, which she vehemently refused to allow even though our offices were by then located within 20 feet of each other. Because of my military training and experience, I was very reluctant to break the "chain-of-command" in OCIJ, even though I realized by then that ACIJ Mohan was "running interference" for CIJ Robie, probably at his request, so I wouldn't be able to discuss any of the matters mentioned in the deep background portion of this case with him.

By March 31, 1990 ACIJ Mohan had fulfilled her supervisory responsibility to her other two employees by providing them with a performance rating covering the period April 1, 1989 through March 31, 1990 and a new PWP covering the next rating cycle from April 1, 1990 through March 31, 1991. But once again, she failed (for the third time since April 1, 1989) to provide me with a PWP so my performance could be adequately evaluated.

By April 1, 1990 I was determined that I would not let this malfeasance and sheer negligence on the part of ACIJ Mohan, as my supervisor, and CIJ Robie, as my reviewer, continue during the next rating cycle without a PWP in place by which I could be evaluated. When, as expected, I did not receive a new PWP for my position as a program analyst, I repeatedly, but gently, requested a PWP from ACIJ to no avail. Finally, once again, I was governed by the grievance time restrictions which forced me to file an informal grievance within OCIJ. For the next 30 days the request for a PWP was ignored. In mid-May 1990, I filed a formal grievance through OCIJ to the Director, EOIR. On June 6, 1990 I received a letter from the Director of EOIR indicating he had directed ACIJ Mohan to provide me with a PWP (as is customary for all government employees <u>without</u> exercising the grievance process.) On June 20, 1990 I received a PWP governing my

duties as a program analyst from June 20, 1990 - past me August 24, 1990 extension date - to March 31, 1991 this year.

By now, the Court should not be surprised to learn that this PWP was precisely the same PWP I had prepared at her request in November/December 1989 which she had earlier refused to sign.

On approximately May 2, 1990, the Fact-Finder requested from both parties a witness list for my grievance hearing scheduled for May 30 and 31, 1990. Since I had been working almost exclusively with Steve Murray from January through May, I requested in-effect that Mr. Murray subpoena Mr. Warren Oser, Director Of DOJ Personnel (who had requested my PMI extension on behalf of the Department) and Ms. Paige (the OPM representative who had approved my PMI extension request) to appear as witnesses. As I carefully explained to Mr. Murray and later to Mr. Bransford, there would be two issues presented (and approved by the Fact-Finder, Mr Kaplan and by Mr. Kohl, the Department of Justice attorney before the hearing commenced): 1. Did DOJ violate Chapter 362 of the PM regarding the extension of my internship? and, 2. Was the extension of my internship a prohibited reprisal for my filing a protected grievance? (Regarding the reprisal, I knew I had a heavy burden to prove this issue, but I was reasonably sure OCIJ had not informed the Director of Personnel that a protected grievance had been filed on May 12, 1989, before the request to extend my internship had been made on May 23, 1989. I also told Mr. Murray and specifically Mr. Bransford that it wouldn't matter what answer Mr. Oser would give; if he said "yes", he was aware that a protected grievance had been filed - this would be a prohibited adverse action under DOJ Order 1771.1B; and if he said "no", then CIJ Robie and ACIJ Mohan would have had a duty to have informed him of this fact.)

Mr. Murray agreed with my assessment, but was forced to defer to Mr. Bransford who refused to call either of the two witnesses. I considered this matter so serious that I requested by letter and by FAX, that he do so. He still refused this reasonable request, and the deadline passed for requesting these witnesses appear. To this day, I still believe, from a layman's perspective, that I had a fundamental and reasonable right

for these witnesses to appear, and that Mr. Bransford's repeated refusal to request these witnesses would be grounds for disbarment before the D.C. Bar Association.

In mid-May 1990, I had successfully negotiated for a transfer with a very agreeable prospective supervisor who was aware of the hostile work environment I was coping with. It was my hope that this peaceful transfer could also be affected on an agreeable basis for all parties, and possibly avoid the necessity of the grievance process. However, CIJ Robie refused to approve the transfer.

On May 30, May 31, and subsequently on June 16, 1990 the grievance was heard in law offices of Mr. Roger Kaplan, Suite 300, 1919 Pennsylvania Avenue, Washington, D.C. The record of proceedings comprises over 550 pages in three bound volumes with over 25 exhibits.

Besides proving beyond a reasonable doubt that my background investigation had been ordered discontinued by the Department two (2) days after I joined DOJ on January 11, 1988, and was only reopened eight (8) days after I had objected to the extension of my PMI internship on that basis, testimony also showed:

1. Neither CIJ Robie or ACIJ Mohan had ever discussed the need for a BI with me.

2. That neither CIJ Robie or ACIJ Mohan had inquired about the necessity of a BI when they sent me to prepare immigration deportation hearing locations in federal correctional institutions in Alabama, Arkansas, Kansas, Mississippi, and Oklahoma in the fall of 1988.

3. That neither CIJ Robie nor ACIJ Mohan could provide the type of clearance required for my position as a program analyst.

4. Perhaps most significantly, neither CIJ Robie nor ACIJ Mohan could provide a (non-retalitory) rational reason for my BI to be

reopened on June 29, 1989 after CIJ Robie had stated in his June 16, 1989 letter to me that my BI "was not completed."

Without the witnesses I had requested, I could not prove that a prohibited reprisal action had occurred. However the Fact-Finder would issue his 17 page report in October, 1990 finding that DOJ had violated Chapter 362 of the FPM by not providing the required documentation necessary for a PMI extension and utterly bebunking CIJ Robie's letter stating the necessity of a BI completion and any alleged training required as without merit. **He recommended that I be converted to GS - 11 career status effective August 24, 1989 (the year before).** For the record, there is not one (1) derogatory comment made by the Fact-Finder **directed at me** in the 17 page Fact-Finder's report that he issued.

As stated earlier, on June 20, 1990 I finally received my PWP signed by ACIJ Mohan and CIJ Robie and I looked forward to performing at the strict level of performance standards I had provided ACIJ Mohan in December 1989.

In July 1990 both parties submitted post-hearing briefs as required by the Fact-Finder.

In early August 1990, after several more gentle requests for work, I finally received an assignment from ACIJ Mohan (after approximately 15 months without work), to analyze the Earliest Possible Parole Dates (EPPDs) for the hundreds of criminal aliens in scores of correctional institutions located in New York State. Within a few days, I gave her an impeccable 28 page report showing the EPPDs necessary for scheduling future immigration deportation hearings on a timely basis. I expected positive feedback for this effort, but received no comment.

Frankly, by August 10, 1990 I thought I was on a somewhat better track (to transfer after I was converted to career status on August 24, 1990). The Court will note that I had about finished my required training with only one course yet to be completed on August 22, 1990;

I had a PWP in place covering the current rating period through March 31, 1991; and I had finally been given work to do as a program analyst, which I had completed in a superior and timely fashion. However, it was at about that point that both parties received copies of the three bound volumes of testimony from the grievance process.

On August 14, 1990, perhaps as a direct result of this reminder of the "protected grievance" process and the dismal testimony of both her and CIJ Robie, ACIJ Mohan presented me, without comment, a personnel action form showing that I would be terminated effective August 24, 1990 due to "expiration of PMI appointment."

Among some of the notable defects I noted in this document were:

1. It was signed by CIJ Robie as the approving authority, although the EOIR Administrative Manual clearly stated he had authority to terminate employees only at the GS 9 level and below. I was a GS 11, who under normal circumstances would have been under consideration for promotion to GS 13 with my PMI peers at that point in time, and as CIJ Robie's June 10, 1988 letter had held out the opportunity to me while I was still in Texas.

2. No reference was made to my special compensatory veteran's status which was required to be completed on the form.

It was clear from the onset since April/May 1989 that the carefully insulated personnel decisions made by CIJ Robie, a former Deputy Attorney General for Personnel, and by ACIJ Mohan, as a knowledgeable former PMI herself, had been designed initially to force me to consider resigning and alternatively to prevent me from transferring to another office or opening. This personnel action for mere "expiration of PMI appointment" was also designed to prohibit me from exercising my veteran's adverse actions rights clearly stated in Chapter 362 of the FPM, which would normally have been exercised by DOJ management if there was any documented issue regarding poor or unsatisfactory performance, misconduct, inefficiency, or unsuitability.

On August 24, 1990, continuing to remain professional in my deportment, I properly out-processed from the Department.

Also on August 24, 1990 my attorney filed a motion before the MSPB requesting that my termination be reviewed, in part, on the basis of my preference eligible status as a special compensatory combat- disabled veteran.

In September 1990, the Department requested that the MSPB deny jurisdiction to hear my case, (out of desperation, I submit, knowing that the Fact-Finder's report and the 550 pages of sworn testimony would be used during any hearing regarding my termination.) The Department also insisted that I was a "temporary employee" in spite of three years of federal service, and pointedly ignored my special compensatory preference eligible veteran's status.

In mid-October 1990, the Fact-Finders report, which had been withheld by the Department for at least 10 crucial days, was submitted by Mr. Murray as the Administrative Law Judge's initial decision literally crossed in the mail. As a former military intelligence officer taught never to believe in coincidence, to this day I don't believe that it was mere coincidence that it would cross in the mail after approximately 17 months of the grievance process, 5 months since the case was heard, and within the same day the ALJ would issue her initial decision, denying jurisdiction and ignoring my veteran's preference rights.

Within a week (late October 1990) after Mr. Murray provided me with a copy of the Fact-Finder's Report, and it "inadvertently crossed-in-the-mail" with the ALJ's initial decision, Mr. Murray was no longer employed by Mr. Bransford's law firm. This unexpected event was a shock to me, since I realized most of the "institutional memory" involved with my case would depart with Mr. Murray. I also believe that Mr. Bransford, who withheld the report for at least six critical days without informing me or Mr. Murray, did me a grave disservice by not immediately forwarding the report to the ALJ's attention. The Department staff had this information for at least two weeks and also failed, and I submit, deliberately withheld, this key evidence from the MSPB (which is co-located with EOIR/OCIJ in Falls Church, Virginia).

As expected, Mr. Murray's replacement, a Ms. Diane Veilleux (whom I have never met in person), was woefully ignorant of my case. In early November 1990, she sent me a very defective rough draft of the MSPB appeal of the ALJ's decision she planned to submit on my behalf. When I tried to explain over the phone several key points that were already on the record in the Fact-Finder's case, she told me it was "too late" to submit any additional evidence before the MSPB.

Frankly, Ms. Veilleux's caustic and cavalier attitude dismissing the evidence and recommendation of the Fact-Finder (i.e. that I should have been converted to career status effective August 24, 1989) troubled me since, 1. it was the original basis I had approached Mr. Bransford's law firm (at a cost of over $20,000 at that point) and 2. in my judgment, was now very germane to the issue of jurisdiction which the government had suddenly raised before the MSPB and I submit, was desperately seeking a way to avoid this previous testimony from being included in a full and impartial hearing.

As a result of her attitude regarding the evidence contained in the Fact-Finder's testimony, I felt it necessary to immediately send her (and Mr. Bransford) a cover letter with three (3) very detailed incident reports of homosexual misconduct involving CIJ Robie's live-in boyfriend (involving not "mere sexual harassment", but sexual battery since he had attempted to fondle me) at CIJ Robie's Christmas Party in mid-December 1988 and two brief, furtive incidents involving CIJ Robie, himself, in January and March 1989. The next day, I asked her to discuss the fact I had attempted to raise this matter with Mr. Bransford at our first three-hour meeting in September 1989.

In this September 1989 meeting, Mr. Bransford (without knowing all the facts) had correctly and vigorously asserted that their sexual preferences were their own business. Realizing I was losing credibility fast with him, (and embarrassed myself in raising these issues), I made a very conscious decision in his office to rely on DOJ Order 1771.1B governing the grievance process, and Chapter 362 of the Federal Personnel Manual governing the Presidential Management Intern Program. It is my understanding now with Mr. Charles Mansour, an attorney previously representing Mr. Bransford for the balance of his

fees, that Mr. Bransford acknowledges I sent him the letter with the incident reports and FAX in mid-November 1990, but disputes (in what I consider a form of "selective amnesia") the fact I had attempted to discuss these issues with him - before he cut me off sharply - at our first three-hour meeting in September 1989.

In November 1990, my appeal was forwarded to the full MSPB, and in a separate legal track, a letter was also sent to the AG's office asking, in effect, for the Department to uphold its own grievance process and to honor the Fact-Finder's Report and recommendations.

In late March, 1991, the AG's office sent me a letter overturning the Fact-Finder's Report on the basis of recommendations submitted by Mr Flickinger, Deputy Attorney General for Administration, (who allegedly had reviewed the case) to Mr. Barr and Attorney General Thornburgh. These recommendations, I submit, are in substantial variance to the record of proceedings in the Fact-Finder's case, and the specific recommendation to overturn the Fact-Finder's finding that it was DOJ who had violated Chapter 362 of the FPM by asserting it was OPM's responsibility directly reflected on the integrity of DOJ's own grievance process. I also was not given the opportunity to rebut Mr. Flickinger's recommendations in a full and open hearing.

The Court is respectfully asked to consider that a factual investigation and analysis made by an attorney on behalf of a district court (and, Petitioner reasonably asserts, to the Attorney General), does not suffice as an evidentiary hearing, because the purpose of an evidentiary hearing is to try issues of fact. *Pope v. Turner* (1970, CAIO Utah) 426 F2d 783, later (CAIO Utah) 461 F2d 644.

Five days later in early April 1991, I received the MSPB decision which continued to maintain I was a temporary employee who was not entitled to jurisdictional rights to a hearing, despite the nature of my PMI appointment and tenure, and which ignored my special compensatory preference eligible veteran's status.

In late September 1991, the United States Court of Appeals for the Federal Circuit also issued its decision and opinion which continued to maintain I was a temporary employee whose career conversion was the responsibility of OPM, not my parent organization, the U.S. Department of Justice. The Court's attention is directed to Section 2-7(2) of Chapter 362 of the FPM which clearly and unmistakably states: "The agency (based on satisfactory performance) decides whether or not to convert the employee. No recommendation is made to OPM."

(Please note that in August 1991 I had respectfully asked the United States Court of Appeals for the Federal Circuit to appear before its scheduled hearing of my case in September 1991 in order to answer any credibility resolutions the lower court might wish to make in this case. However the lower court denied me the opportunity to present oral arguement.)

Unfortunately, the lower court's decision and opinion is also notably defective in failing to acknowledge the key issue of my veteran's status.

DEEP BACKGROUND SUMMARY

The recent sex scandals involving notables have made me wince, but have also confirmed certain closely-held beliefs I have maintained to myself for a little over three years now. All I can say is that long before these other cases were the source of national amusement, I have been painfully aware of the major issues of timeliness and credibility I would face if I was forced to embarrass myself and my family (just to obtain a hearing in my case so I might retain my job).

It is perhaps the unfortunate nature of such inherent privacy cases that even if the matter is brought to the attention of the Court, such allegations can never be proved or disproved beyond a reasonable doubt. Thus, the "inconclusive" nature of such cases normally does not seem to offer any relief, particularly if one is trying to avoid a

mini-scandal with one's agency, and embarrassment to oneself and family.

But I respectfully request that the Court consider the totality of this (hostile) work environment in which I, without cause, was not given a performance work plan until I formerly grieved for a PWP so I could be objectively evaluated, and then only received a PWP just before I was terminated; in which I repeatedly, but gently asked for work and was not given an assignment until a few weeks prior to my termination; in which I repeatedly requested a reasonable discussion of any issues my supervisors' deemed important and was ignored; and the fact that I was denied the opportunity to transfer which might reasonably have avoided this disclosure, and permitted me to be fully productive in work that I really enjoyed.

In conclusion, this appendix has attempted to show my work history and the extenuating circumstantial evidence that might reasonably show the discriminatory intent behind my removal action.

I now respectfully submit that this removal action, which ignored my known special compensatory (30 percent or more), preference eligible combat-disabled veterans status, and the subsequent lower court decisions denying jurisdiction, may warrant the Court to review the due process protections afforded to preference eligible veterans under the Fifth Amendment of the United States Constitution. Thus, this writ of certiorari.

POSTSCRIPT

MEMORANDUM OF UNDERSTANDING

I, Charles Mansour, Esquire, do hereby confirm that I have spoken via telephone today to Mr. William Bransford, Attorney and that Mr. Bransford acknowledges that Richard C. Soehngen first discussed Judge Robie's homosexuality in general terms at their first meeting in September, 1989. Both Mr. Bransford and Diane Villieux, Attorney, also have acknowledged to me that they first received copies of Mr. Soehngen's letter and FAX of November, 1990, stating three incidences, in detail, of sexual misconduct by Judge Robie in December, 1988 and January and March, 1989.

Date:(Undated)

(Unsigned)
Charles Mansour, Esquire

(Please note: At his request in early October, 1991, Petitioner met in the law office of Mr. Charles Mansour, a Washington, D.C. attorney previously representing Mr. William Bransford, Petitioner's former attorney, for the balance of his fees. It is now Petitioner's understanding with Mr. Mansour, via subsequent telephone conversation, that Mr. Bransford acknowledges that I sent him the letter with the incident reports and FAX in mid-November 1990, but disputes, in what I consider a form "selective amnesia", the fact I had attempted to discuss these issues with him - before he cut me off sharply - at our first three-hour meeting in September, 1989.)